

ELECTRONICALLY FILED

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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SYMBOL TECHNOLOGIES, INC.

Plaintiff,

- against -

JEROME SWARTZ, HARVEY P. MALLEMENT, :
RAYMOND R. MARTINO, GEORGE :
BUGLIARELLO, CHARLES B. WANG, TOMO :
RAZMILOVIC, LEO A. GUTHART, JAMES :
SIMONS, SAUL P. STEINBERG, LOWELL :
FREIBERG, :

Defendants.

----- X

FILED

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U.S. DISTRICT COURT, E.D.N.Y.

★ OCT 14 2004 ★

BROOKLYN OFFICE

03-CV-2034 (NGG)(CLP)

**RULE 41(a)(1) NOTICE OF
VOLUNTARY DISMISSAL
WITHOUT PREJUDICE**

WHEREAS, no Defendant has answered nor moved for summary judgment herein; and

WHEREAS, by Order dated September 9, 2004 (the "Order") this Court deemed
Defendants' Motion to Dismiss withdrawn and granted Plaintiff thirty days to file either an
amended complaint or to dismiss this action and pursue these claims in the already pending
action in Delaware Chancery Court,

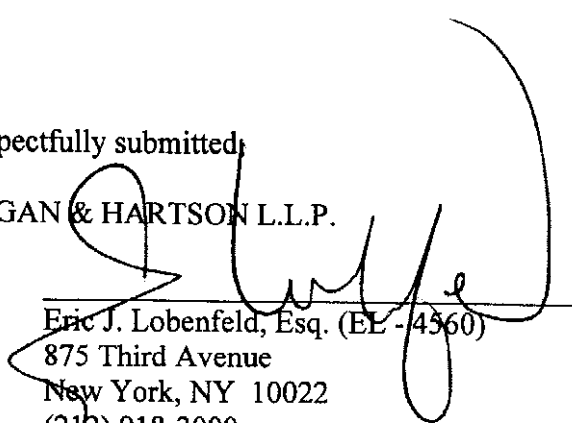
NOW THEREFORE, Plaintiff Symbol Technologies, Inc. hereby voluntarily dismisses without prejudice the Complaint herein pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure and the Order.

Dated: October 5, 2004

Respectfully submitted,

HOGAN & HARTSON L.L.P.

By:


Eric J. Lobenfeld, Esq. (EL - 4560)
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New York, NY 10022
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*Attorneys for Plaintiff Symbol
Technologies, Inc.*

So ordered.

s/Nicholas G. Garaufis, USDJ

Oct 7, 2004

Recipient is directed to mail/fax copy of this order to all relevant parties.